

FILE COPY

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IN THE

# Supreme Court of the United States

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Nos. 10, 11, 12, 13.

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THE CITY OF INDIANAPOLIS, et al.,  
*Petitioners,*  
v.

THE CHASE NATIONAL BANK OF THE CITY  
OF NEW YORK, Trustee, etc., et al.,  
*Respondents.*

THE CHASE NATIONAL BANK OF THE CITY  
OF NEW YORK, Trustee, etc.  
*Petitioner,*  
v.

CITIZENS GAS COMPANY OF INDIANAPOLIS, et al.,  
*Respondents.*

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PETITION OF CITY OF INDIANAPOLIS ET AL. TO  
LIMIT OPENING STATEMENT AND ARGUMENT OF  
RESPONDENT—CROSS-PETITIONER, CHASE  
NATIONAL BANK.

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To the Honorable Supreme Court of  
the United States:

The City of Indianapolis, a municipal corporation of the State of Indiana, and the members of its Board of Trustees for Utilities and the members of its Board of Directors for Utilities, petitioners in causes 10 and 11 and respondents in causes 12 and 13, October Term, 1941, respectfully petitioning, show to the Court:

1. On September 12, 1940, petitioner's petitions for writs of certiorari were docketed on the dockets of this Court as Causes numbered 421 and 422, October Term, 1940.

2. On September 12, 1940, the cross-petitions of the Chase National Bank of the City of New York, Trustee, respondent in Causes numbered 421 and 422, October Term, 1940, and numbered Causes 10 and 11, October Term, 1941, were docketed as Causes numbered 423, 424, October Term, 1940, now docketed as causes numbered 12 and 13, October Term, 1941.

3. The petitions of petitioner City of Indianapolis et al., and the cross-petitions of The Chase National Bank of the City of New York, Trustee, were granted on October 23, 1940.

4. The cross-petitions of The Chase National Bank of the City of New York, Trustee, present but one question, viz: If The Chase National Bank of the City of New York, Trustee, is entitled to recover against the City of Indianapolis, et al., whether it is entitled to 6% interest on overdue interest on certain outstanding bonds, and whether it is entitled to 6% interest on the judgment ordered entered by the Circuit Court of Appeals reversing the District Court; or is entitled on each to only 5% interest, as held by the United States Circuit Court of Appeals for the Seventh Circuit.

5. Said causes were presented orally to the Court by counsel for all of the parties on February 6th and 7th, 1941.

6. Said causes have been set by the Court on its own motion for reargument on October 13, 1941.

7. Under part 1 of Rule 28, it is provided that when there are cross writs of certiorari the causes should be argued together as one case, and the plaintiff in the court below shall be entitled to open and conclude the argument. The cross-writs of The Chase National Bank of the City of New York, Trustee, are limited to the one question as pointed out in number 4 above. The Chase National Bank, in being permitted to open by reason of being the plaintiff in the court below, should be limited in its opening to that statement of facts which is necessary to present the one question raised by the cross-writs of certiorari and should be limited in its opening argument on its cross-writs to the single question of whether it is entitled to 5% or 6% interest, if the judgment of the Circuit Court of Appeals against the City is affirmed by this court.

8. The question of whether the interest rate should be 5% or 6% is wholly unrelated to the main controversy in this case, viz., the validity of the 99 year lease against the City. A statement of the controlling facts in respect of the main issue is not necessary to a presentation of the question of the interest rate. Nor would a statement of the controlling facts in respect of the main question prove helpful in a determination of the rate of interest. The rate of interest to which Chase will be entitled from the City if the decision of the Circuit Court of Appeals is affirmed will rest on whether there is an applicable contract rate of 5% or whether the statutory rate of 6% will apply.

WHEREFORE, the City of Indianapolis and the individual members of its Board of Trustees and Board of Directors for its Department of Utilities, pray that the Court will limit The Chase National Bank of the City of New York, Trustee, respondent in Causes 10 and 11, and cross-peti-

tioner in Causes 12 and 13, October Term, 1941, to the presentation on its opening on reargument to the facts and argument in respect of the limited question raised by its cross-writs of certiorari.

Respectfully submitted,

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